

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN
MADISON DIVISION

---oOo---

ERICK D. RIGBY,)
)
Plaintiff,)
)
vs.)
)No. 3:19-cv-00036-JDP
)
CROSSCHECK SERVICES, LLC)
d/b/a OPTIO SOLUTIONS, LLC)
d/b/a QUALIA COLLECTION)
SERVICES,)
)
Defendant.)
)
)

DEPOSITION OF BRUCE HOTALING, PMK
ON BEHALF OF OPTIO SOLUTIONS, LLC
Monday, September 16, 2019
PETALUMA, CALIFORNIA

ECOSCRIBE SOLUTIONS - JOB NO.: 30793
REPORTED BY: A. MAGGI SAUNDERS,
C.S.R. No. 2755

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Page 4	Page 5
<p>1 BE IT REMEMBERED that, pursuant to Notice</p> <p>2 of Taking Deposition, and on Monday, the 16th day of</p> <p>3 September, 2019, commencing at the hour of 10:13</p> <p>4 o'clock a.m. thereof, at the REGUS BUSINESS CENTER,</p> <p>5 755 Baywood Drive, 2nd Floor, Petaluma, California</p> <p>6 94954, before me, A. MAGGI SAUNDERS, a Certified</p> <p>7 Shorthand Reporter in and for the State of</p> <p>8 California, there personally appeared for oral</p> <p>9 deposition,</p> <p>10</p> <p>11 BRUCE HOTALING,</p> <p>12</p> <p>13 called as a witness by the Plaintiff ERICK RIGBY,</p> <p>14 who, being by me first duly sworn, was thereupon</p> <p>15 examined and interrogated as hereinafter set forth.</p> <p>16</p> <p>17 ---oOo---</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES</p> <p>2</p> <p>3 APPEARING TELEPHONICALLY:</p> <p>4 FOR THE PLAINTIFF, ERICK RIGBY</p> <p>5 SULAIMAN LAW GROUP, LTD.</p> <p>6 BY: NATHAN VOLHEIM, ESQ.</p> <p>7 2500 S. Highland Avenue, Suite 200</p> <p>8 Lombard, Illinois 60148</p> <p>9 (630) 948-8411</p> <p>10 nvolheim@sulaimanlaw.com</p> <p>11</p> <p>12 APPEARING TELEPHONICALLY:</p> <p>13 FOR THE DEFENDANT CROSSCHECK SERVICES, LLC d/b/a</p> <p>14 OPTIO SOLUTIONS, LLC AND THE</p> <p>15 WITNESS HEREIN, BRUCE HOTALING</p> <p>16 LIPPES MATHIAS WEXLER FRIEDMAN, LLP</p> <p>17 BY: BRENDAN H. LITTLE, ESQ.</p> <p>18 50 Fountain Plaza - Suite 1700</p> <p>19 Buffalo, New York 14202</p> <p>20 (716) 853-5100</p> <p>21 blittle@lippes.com</p> <p>22</p> <p>23 APPEARING IN PERSON: D. LILAH McLEAN, ESQ.N</p> <p>24 Corporate Counsel and Manager of Legal Affairs, OPTIO</p> <p>25 SOLUTIONS, LLC, lmclean@optiosolutions.com</p>

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1 MONDAY, SEPTEMBER 16, 2019 - 10:13 O'CLOCK A.M.
2
3 PETALUMA, CALIFORNIA
4
5 PLEASE NOTE: BOTH MR. VOLHEIM AND MR. LITTLE
6 APPEAR TELEPHONICALLY AT THIS DEPOSITION
7
8 ---oOo---
9 BRUCE HOTALING, PMK FOR CROSSCHECK SERVICES,
10 called as a witness herein, being first duly sworn by
11 the Certified Shorthand Reporter to tell the truth,
12 the whole truth, and nothing but the truth, testified
13 as follows:
14 EXAMINATION BY MR. VOLHEIM:
15 MR. VOLHEIM: Q. Good morning,
16 Mr. Hotaling. My name is Nathan Volheim. I represent
17 the Plaintiff in this matter.
18 Please feel free to call me "Nate," do you
19 mind, because I've already butchered your name, do you
20 mind if I call you "Bruce"?
21 **A. Bruce is fine.**
22 Q. Okay. And, like I said, please feel free
23 to call me Nate.
24 **A. Okay.**
25 Q. Bruce, have you been deposed before?

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1 disrespect from me. It's just the mechanics of doing
2 this telephonically.
3 Also, on that note, you want to keep all
4 of your answers verbal. Any physical gestures, I can't
5 see, as well as they don't show up on the deposition
6 transcript.
7 Are those ground rules fair?
8 **A. Yes, sir.**
9 Q. Okay, great.
10 If you need to take a break at any point,
11 or anyone else needs to take a break at any point,
12 that's completely fine. This is not a sprint, but I
13 don't want it to be a marathon, either, of course.
14 I don't anticipate this lasting more than
15 an hour or two. However, like I said, you are free to
16 take as many breaks as you need. All that I ask is, if
17 we are in the middle of a question, please finish
18 answering that question; is that fair?
19 **A. Yes, sir.**
20 Q. Okay. You understand that you are under
21 oath today; is that correct?
22 **A. Correct.**
23 Q. Are you under the influence of any
24 substances, either legal or illegal, that would impair
25 your ability to give truthful and accurate testimony

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1 **A. A long time ago.**
2 Q. Okay. So, even if you've been deposed
3 yesterday, I'm going to go over a couple of ground
4 rules, I just -- it makes this go easier.
5 First and foremost, obviously, I am in
6 my office in -- well, not obviously -- I am in my
7 office in Oak Brook, Illinois outside of Chicago. I
8 am the only one here, I am appearing telephonically.
9 Your counsel is in his office, I believe
10 in Buffalo, New York, and that is all by the
11 agreement of the parties.
12 Can you state where you are, Bruce?
13 **A. I am in Petaluma, California.**
14 Q. Other than our fine Court Reporter and
15 Mrs. McLean, is there anyone else in the room with you
16 right now?
17 **A. No, sir.**
18 Q. Okay. So, obviously, because this is
19 telephonic, it raises a few challenges: First and
20 foremost, I'm going to ask you some questions, and it's
21 important that we try not to talk over each other.
22 I will do my best, obviously, to not
23 talk over you, please do your best not to talk over
24 me. If it happens, by accident, Miss Saunders will
25 yell at us, but I can assure you it's not out of any

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1 today?
2 **A. No.**
3 Q. If you answer my question, is it fair for
4 me to assume you that understand the question?
5 **A. If I answer your question?**
6 Q. Correct.
7 **A. Yeah; if I answer it, yes.**
8 Q. Okay. And obviously, if I ask you
9 something that you don't understand, or you want
10 clarification, please feel free to ask. It is very
11 likely that I will ask you something in a clumsy way,
12 and you may need some further clarification, and I do
13 not take offense if you ask for clarification, okay?
14 **A. Yup.**
15 Q. Okay. Last thing: Throughout this
16 deposition your counsel may object. Unless he
17 instructs you specifically not to answer, let him make
18 his objection, and then you can go ahead and answer the
19 question. Is that understood?
20 **A. Correct, okay.**
21 Q. Okay. All right.
22 Can you state and spell your full name
23 for the record.
24 **A. My first name is Bruce, B-r-u-c-e. My**
25 **last name is H-o-t-a-l-i-n-g. It's pronounced**

<p style="text-align: right;">Page 10</p> <p>1 "Hotaling". 2 Q. Okay. And who do you work for? 3 A. Optio Solutions. O-p-t-i-o, Solutions. 4 Sorry, Nate. 5 Q. That's not a problem. 6 Does Optio Solutions have any dba's? 7 A. Yes. 8 Q. And what are those? 9 A. Qualia. And that's spelled Q-u-a-l-i-a, 10 Collection Services. 11 Q. Any other dba's other than that? 12 A. No, sir. 13 Q. Okay. Today I might use some shorthand, 14 just saying "Otio". Is it fair for us both to 15 understand that I'm referring to your company, 16 Optio Solutions? 17 A. Yes, that's fine. 18 Q. Okay. How long have you worked for Optio? 19 A. Twelve years. 20 Q. And what is your current role? 21 A. I'm the vice president. 22 Q. And just as kind of a general overview, 23 what responsibilities fall under your purview as 24 vice president? 25 A. I manage a collections group. I'm</p>	<p style="text-align: right;">Page 11</p> <p>1 responsible for compliance, responsible for coaching 2 and training, hiring and recruiting. Basically, 3 teaching collectors how to collect the debts that we 4 are responsible for. 5 Q. How long have you served in the role of 6 vice president? 7 A. At Optio Solutions? 8 Q. Yes, please. 9 A. All 12 years. 10 Q. Okay. You mentioned that part of your 11 duty is dealing with collectors and making sure that 12 they are in compliance; is that fair to say? 13 A. Yes. 14 Q. As part of those duties do you make sure 15 that your -- excuse me. 16 As part of those duties, is it part of 17 your responsibility to make sure that collectors are 18 in compliance with the Fair Debt Collection Practices 19 Act, or "FDCPA" for short? 20 A. Yes. 21 Q. Just generally, what is your training or 22 experience with the FDCPA? 23 A. My personal experience, or my personal 24 training? 25 Q. Yeah, let's start with that.</p>
<p style="text-align: right;">Page 12</p> <p>1 A. Well, I'm versed in the FDCPA. I am -- we 2 go through -- we have compliance meetings twice a month 3 at our -- with all of our collectors and myself. 4 Yeah; I mean, that's probably it. 5 Q. Do you hold any degrees or certifications 6 with respect to the FDCPA? 7 A. I have an ACA credential that I received 8 for a collections professional. 9 Q. Approximately when did you receive that? 10 A. Hmm. Probably -- Well, it was just 11 recently updated -- probably in the last six months it 12 was recently updated, so I would probably have to say 13 six months to a year. 14 Q. What is the highest level of education 15 that you have achieved? 16 A. Personally? 17 Q. Yes. 18 A. I finished my junior year at Sonoma State 19 University. 20 Q. Okay. You do not have a law degree; is 21 that correct? 22 A. That's correct. 23 Q. Okay. 24 MR. VOLHEIM: I'm going to ask our 25 Court Reporter, unless you already have it, to hand you</p>	<p style="text-align: right;">Page 13</p> <p>1 what's been premarked as Exhibit A, A as in apple. 2 If you could go ahead and take a look at 3 Exhibit A, and let me know when you are done, I would 4 appreciate it. 5 (Plaintiff's First Amended Notice of 6 Deposition marked Plaintiff's Exhibit A 7 for identification.) 8 THE WITNESS: I have Exhibit A. 9 MR. VOLHEIM: Q. Okay, great. 10 Bruce, if you could just quickly look 11 through Exhibit A, and let me know when you are done. 12 A. (Looking at the document) Okay, I'm done, 13 sir. 14 Q. Thank you. 15 MR. VOLHEIM: For the record, Exhibit A 16 has been -- or is Plaintiff's First Amended Notice of 17 Deposition. 18 Q. Have you seen Exhibit A before today, 19 Bruce? 20 A. Yes, sir. 21 Q. When do you recollect first seeing 22 Exhibit A? 23 A. I think Wednesday of last week. 24 Q. There are topics 1 through 27. Do you see 25 those topics?</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Yes, sir. 2 Q. Did you review those topics before today? 3 A. I read through them, yes. 4 Q. Is it your understanding that Optio has 5 designated you its Corporate Representative to testify 6 as to Topics 1 through 27? 7 A. Yes, sir. 8 Q. And regarding Topics 1 through 27, are 9 there any of those topics in which you feel that you 10 cannot truthfully, accurately and completely testify 11 to? 12 A. I'm going to have to look through them 13 again real quick. 14 Q. Go ahead. 15 A. (Reviewing the document.) 16 No. 2, I don't have -- I am -- I don't 17 have the knowledge of the telephone system. 18 2, 3 and 4 seem to be the -- pretty much 19 the same thing; the same with 5. 20 You know, all of the questions I can 21 answer truthfully. Some of them I may not have the 22 information that is necessary for the question in 23 regards -- especially in regards to the workings of 24 the phone system that -- that you mention in here. 25 Everything else seems fine.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. So, to clarify, you cannot 2 testify -- and I don't want to put words in your mouth, 3 so please -- 4 A. No -- 5 Q. -- please correct me if I'm wrong -- 6 A. -- please don't -- 7 Q. -- but you can cannot testify to the 8 technology, the phone system or the technology that 9 Optio may have used in contacting our client -- my 10 client? 11 MR. LITTLE: Object to the form. 12 THE WITNESS: Did Brendan just say 13 something? 14 MR. LITTLE: You can answer, Bruce. 15 THE WITNESS: Okay. Yes, I -- I can 16 answer the -- I guess what I was saying is I don't 17 know -- if you are going to ask me -- I don't know how 18 to say it -- questions pertaining to the -- to the 19 internal workings of the phone, but I can speak to the 20 other information in regards to what we use to collect 21 our debt. Does that make sense? 22 MR. VOLHEIM: Q. Okay. Yes, thank you. 23 Miss Saunders, can we go off the record, 24 please. 25 THE REPORTER: Absolutely.</p>
<p style="text-align: right;">Page 16</p> <p>1 (Brief discussion held off the record.) 2 MR. VOLHEIM: Okay, we can go back on the 3 record, Miss Saunders. 4 Q. Bruce? 5 A. Yup. 6 Q. I'm not asking you for your legal opinion 7 in any way, but as someone who does compliance work for 8 Optio, what is your understanding of my client's 9 allegations in the lawsuit at issue? 10 A. You want me to answer to what Mr. Rigby 11 is -- what we're doing here today? 12 Q. Sure. 13 A. There is an allegation of a third-party 14 disclosure; 15 There is an allegation of a TCPA 16 violation; 17 And there is an allegation of alleged 18 harassment. 19 Q. Okay. Did my client make an allegation 20 that he asked Optio to stop calling him? 21 MR. LITTLE: Form. You can answer, Bruce. 22 THE WITNESS: Yes, he did. 23 But he also followed that up, I'd have 24 to look at the documentation notes to give you the 25 date that that happened on, but I do know that</p>	<p style="text-align: right;">Page 17</p> <p>1 approximately 19 minutes after that conversation, 2 your client called our department back, and proceeded 3 to have further conversations with regards to his 4 debt, even after -- he's the one -- even after he 5 said not to call him anymore, he called us back. 6 And therefore, once he made that phone 7 call back to us, and then agreed to have us call him 8 back the next day to discuss a payment plan, as far 9 as we were concerned, the Cease and Desist was null 10 and voided at that point. 11 MR. VOLHEIM: Q. Okay. So, I didn't jump 12 in there Bruce, because I don't want to talk over you, 13 but we're going to have to go over a ground rule here. 14 You've got to answer the question that I 15 ask, and you can't go off answering questions that I 16 didn't ask -- 17 A. I didn't -- 18 Q. -- because your counsel is going to have 19 an opportunity to ask you questions after I'm done. 20 And at that point you are free to expound on as much as 21 you would like. 22 But my question in this circumstance was 23 pretty much: Did my client make a specific 24 allegation, and your answer went into a contextual 25 defense of why you believe that your company didn't</p>

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1 violate the law.
2 So all I'm asking is, try to keep your
3 answers to the question that I asked, and not
4 anticipate or go off on a tangent that you want to get
5 in. You'll be able to get that in when your counsel
6 asks you follow-up questions; is that fair?
7 **A. I did answer your question. And you left**
8 **the question open for me to completely answer the**
9 **question the way I did.**
10 Q. Bruce, I'm not going to get combative with
11 you --
12 **A. I'm not being combative --**
13 Q. Bruce, I didn't talk over you. Please
14 continue not to talk over me.
15 I already have a witness who stated that
16 he can't testify to a lot of topics that are important.
17 So, if we want to get combative, we can
18 adjourn this deposition, and we can get a witness who
19 can testify to those topics.
20 MR. LITTLE: Object to the form.
21 MR. VOLHEIM: There wasn't a question
22 there.
23 Q. Why was Optio contacting my client?
24 **A. Because your client wrote three checks to**
25 **our client, and the checks were returned,**

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1 client, had my client defaulted on his payments to
2 CrossCheck?
3 **A. Yes.**
4 Q. Does Optio [Furniture] [sic.] own any part
5 of the debt in which it was seeking collection on?
6 MR. LITTLE: Object to the form.
7 **THE WITNESS: Who is "Optio Furniture"?**
8 MR. VOLHEIM: Q. I apologize.
9 Does Optio own any part of the debt that
10 it was seeking collection on behalf of CrossCheck for?
11 **A. No, sir.**
12 Q. Was Optio acting as a debt collector with
13 respect to my client?
14 MR. LITTLE: Form.
15 **THE WITNESS: Yes, sir.**
16 MR. VOLHEIM: Q. How many accounts was
17 Optio collecting on behalf of my client with respect to
18 Ashley Furniture?
19 **A. Well, we weren't collecting on behalf of**
20 **your client. We were collecting from your client.**
21 Q. How many accounts was Optio collecting?
22 **A. Three.**
23 Q. Three different accounts.
24 **A. Three different checks, Nate.**
25 Q. Okay. Were all of those checks under the

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1 **"Non Sufficient Funds".**
2 Q. Who is your client in the context of that
3 response?
4 **A. CrossCheck.**
5 Q. What is my client's relationship with
6 CrossCheck?
7 **A. CrossCheck is the check guarantee company**
8 **for Ashley Furniture.**
9 Q. To your knowledge and understanding, is
10 CrossCheck part of Ashley Furniture?
11 **A. Rephrase the question, please?**
12 Q. To your knowledge and understanding, is
13 CrossCheck a part of Ashley Furniture?
14 MR. LITTLE: I objected to the form.
15 MR. VOLHEIM: Q. You may answer.
16 **A. Oh. Repeat the question, please?**
17 Q. To your knowledge and understanding, is
18 Ashley Furniture -- or excuse me, strike that.
19 To your knowledge and understanding, is
20 CrossCheck a part of Ashley Furniture
21 MR. LITTLE: Object to the form. You can
22 answer, if you know.
23 **THE WITNESS: CrossCheck is not part of**
24 **Ashley Furniture.**
25 MR. VOLHEIM: Q. When Optio contacted my

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1 same account number, or different account numbers?
2 **A. Same.**
3 MR. LITTLE: Form.
4 MR. VOLHEIM: Q. Did you say, "same"?
5 **A. I didn't hear what Brendan said.**
6 MR. LITTLE: I just objected to the form.
7 **THE WITNESS: Oh.**
8 MR. LITTLE: You can answer, Bruce.
9 **THE WITNESS: Repeat the question.**
10 MR. VOLHEIM: Q. Were all three checks
11 under the same account number?
12 **A. To my --**
13 MR. LITTLE: Object to the form.
14 **THE WITNESS: To my knowledge, yes.**
15 MR. VOLHEIM: Q. What is that account
16 number? What is the account number that Optio was
17 collecting on?
18 **A. What was the account number?**
19 Q. Correct.
20 **A. I don't -- I don't -- I'd have to see**
21 **the -- I don't have that in front of me; I'm not sure.**
22 Q. Okay. What document or documents would
23 give you that information?
24 **A. Copies of the checks.**
25 Q. Okay. Let me clarify. Did Optio assign

<p>Page 22</p> <p>1 an account number related to collection activity 2 against my client? 3 A. Correct; yes, we did. 4 Q. Okay. Do you know that collection 5 number -- 6 A. I would -- 7 Q. Excuse me, strike that. 8 Do you know that account number? 9 A. I would need to see the documentation 10 notes. 11 Q. Okay. So I think the document that would 12 help, be helpful to you would be Exhibit F, as in 13 Frank. So, why don't you go ahead and pull that out, 14 and let me know if I'm correct. 15 A. Okay. Go ahead, Nate. 16 Q. Exhibit F for the record is a copy of 17 Optio's account notes. Have you seen this document 18 before? 19 A. Yes. 20 Q. Will this document tell you the account 21 number that Optio was using in reference to my client? 22 A. Yes. 23 Q. What is that account number? 24 A. 4760109. 25 Q. Okay. And I believe that probably appears</p>	<p>Page 23</p> <p>1 on many pages, but let's just go to the first page, 2 it's in the upper left-hand corner, is that correct, 3 under Claim No.? 4 A. Correct. 5 Q. Okay. Was Optio collecting or using any 6 other account numbers with respect to my client? 7 A. Yes. 8 Q. What are those account numbers? 9 A. I don't have those available to me, unless 10 they are in one of the exhibits. They are not -- I'm 11 looking through Exhibit F, and they are not in here. 12 Q. You would agree with me that Exhibit F 13 only references Account No. 4760109; is that correct? 14 A. Correct. 15 Q. In connection with Exhibit F -- strike 16 that. 17 When did Optio receive my client's 18 account from CrossCheck? 19 A. It looks like we received it on 20 August 28th, 2018. 21 Q. When you received it, did Cross- -- did 22 Optio send any written correspondence to my client? 23 A. Yes. 24 Q. What is the date of the written -- the 25 first written correspondence that Optio sent?</p>
<p>Page 24</p> <p>1 A. I'm looking -- I don't recall off the top 2 of my head, and I don't -- I do not see it on 3 Exhibit F. 4 Q. Should Exhibit F include a notation of any 5 written correspondence that Optio has sent? 6 A. (Looking at the document) 7 One moment, please. Let me look through 8 this exhibit because there is several pages here. 9 You are going to have to bear with me for a second. 10 Q. Take your time. 11 A. Okay. So we did -- here it is right 12 here -- we sent the first letter on September 3rd, 13 2018. 14 Q. What page are you referencing for that 15 information? 16 A. It would be page three. I guess -- is the 17 page number at the bottom right? 18 Q. There are Bates numbers at the bottom 19 right-hand corner. If you want to give me that, that 20 would be appreciated. 21 A. Yeah, look at -- look at Optio 016. 22 Q. Okay. And can you draw my attention to 23 where you are seeing that date? 24 A. Right where it says "First Request". 25 Q. I apologize. Can you give me better</p>	<p>Page 25</p> <p>1 direct- -- or other directions. I'm not seeing the 2 First Request? 3 A. Are you looking at page 16? 4 Q. I am -- Oh, I see it now. It's in the 5 middle of the box there. 6 A. Correct. 7 Q. Okay. This is the first correspondence 8 that Optio sent to my client? 9 A. Correct. 10 Q. Did Optio produce, in connection with this 11 litigation, did Optio produce a copy of that letter, to 12 your knowledge? 13 A. I don't understand the question. 14 Q. Through the course of this litigation, did 15 Optio produce a copy of the letter it sent to my client 16 on September 3rd, 2018? 17 A. Do we have a copy of it? 18 Q. No. I'll get to that in a moment. 19 To your knowledge, has Optio given me a 20 copy of the letter dated September 3rd, 2018 it sent to 21 my client? 22 A. I have no idea. 23 Q. Does Optio have a copy or access to this 24 letter? 25 A. Not to my knowledge. I'm not sure.</p>

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1 Q. You don't know if Optio has the ability to
2 get copies of letters that it sends?
3 **A. Correct.**
4 Q. Who would know the answer to that
5 question?
6 **A. I'm not sure.**
7 Q. What other correspondence -- what other
8 written correspondence did Optio send to my client
9 other than the letter dated September 3rd, 2018?
10 **A. We sent a Second Request letter on**
11 **September 13th, 2018.**
12 Q. And where is that notated?
13 **A. Page 17, the same box, second line down.**
14 Q. To your knowledge, has Optio produced a
15 copy of that letter in the course of this litigation?
16 **A. I do not know.**
17 Q. To your knowledge, does Optio -- is Optio
18 able to get a copy of that letter dated September 3rd,
19 2018?
20 **A. I'm not sure.**
21 Q. Are you also unaware of who would know?
22 **A. That's correct.**
23 Q. Other than those two correspondences, has
24 Optio produced or sent my client any other written
25 correspondence?

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1 Q. Any other correspondence other than those
2 that we've discussed?
3 **A. Not to my knowledge.**
4 Q. Did my client ever send Optio any written
5 correspondence?
6 **A. Not to my knowledge.**
7 Q. Could I ask you to turn to what's been
8 premarked as Exhibit D as in dog.
9 **A. [Reviewing document] Okay.**
10 Q. Before we get to Exhibit D, based on your
11 experience -- well, strike that. We'll get back to
12 that. My apologies.
13 For the record Exhibit D is Defendant
14 Optio Solution, LLC's Responses to Plaintiff's First
15 Set of Interrogatories.
16 (Optio Solutions, LLC's Responses to
17 Plaintiff's First Set of Interrogatories
18 marked Plaintiff's Exhibit B for
19 identification.)
20 MR. VOLHEIM: Q. Have you seen this
21 document before today?
22 **A. I did.**
23 Q. When is the first time that you saw this
24 document?
25 **A. Wednesday.**

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1 **A. Yes.**
2 Q. What other dates?
3 **A. We sent on September 20th, 2018, on page**
4 **18, we sent -- we re-sent the first letter upon your**
5 **client's request.**
6 Q. Is that -- what date was that?
7 **A. 9/20/2018.**
8 Q. Any other written correspondence sent by
9 Optio to my client?
10 **A. Yes. We sent a -- on page 19 of**
11 **Exhibit F, we sent a Third Request letter on**
12 **October 22nd, 2018.**
13 Q. And is it fair to say that you are unaware
14 if Optio produced any of these correspondence in the
15 course of this litigation?
16 **A. Produced them to who?**
17 Q. To me.
18 **A. Yes, same answers as before.**
19 Q. Any other letters after October 22nd,
20 2018?
21 **A. Yes. We sent a preauthorization letter,**
22 **agreeing to the payment plan that your client agreed**
23 **to, and I -- it's in one of the exhibits, I'm just not**
24 **sure which one, so I would need to search for that to**
25 **give you the date.**

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1 Q. Had you seen this document prior to
2 Wednesday?
3 **A. Oh, you just asked me when the first time**
4 **I saw it was.**
5 Q. So you didn't see this document prior to
6 Wednesday.
7 **A. That's -- Yes, that's the answer to your**
8 **question.**
9 Q. Okay. If that's the case, I want you to
10 turn to the last page.
11 **A. Okay.**
12 Q. Whose signature appears at the last page?
13 **A. That's mine.**
14 Q. Do you want to go ahead and read that
15 verification?
16 **A. [Reading]:**
17 **"Bruce Hotaling, first being duly sworn**
18 **deposes and states that he is the Vice**
19 **President of Consumer Relations for**
20 **Optio Solutions, LLC, the Defendant in**
21 **the above-entitled action;**
22 **"That he has read the foregoing response**
23 **to the Plaintiff's Interrogatories, and**
24 **knows the contents thereof;**
25 **That the statements of fact are above --**

<p>Page 30</p> <p>1 [oh, I'm sorry] -- the statements of 2 fact above are true, to the best of his 3 knowledge, except as to those matters 4 alleged upon information and belief and 5 that, as to those matters, he believes 6 them to be true." 7 Q. What date did you sign that verification? 8 A. I'm not sure, sir. 9 Q. If I told you it purported that Defendant 10 produced these responses on May 3rd, 2019, do you have 11 any reason to doubt that is correct? 12 A. No, sir. 13 Q. So, how did you sign that sworn statement, 14 if the first time that you saw these documents was on 15 Wednesday? 16 A. I don't remember. 17 Q. I'm sorry, what don't you remember? 18 A. Repeat the question, please? 19 Q. Sure. You told me that you saw these 20 documents for the first time on Wednesday; is that 21 correct? 22 A. Correct. 23 Q. Yet Defendant produced these documents 24 with your signature on May 3rd, 2019. 25 So my question is, how did you sign that</p>	<p>Page 31</p> <p>1 verification under oath, stating that you reviewed 2 these documents, when you hadn't seen them until 3 Wednesday? 4 A. Well, that was over five months ago, so I 5 forgot that I had signed this. 6 Q. Do you have any issues with your memory? 7 MR. LITTLE: Form. 8 THE WITNESS: I would -- I would 9 appreciate it, Nate, if you don't insult me. 10 MR. VOLHEIM: Q. I didn't insult you, I 11 asked a question. 12 You just stated you didn't remember 13 something, and I'm asking you if you have any issues 14 with your memory. 15 MR. LITTLE: Form. 16 THE WITNESS: Don't ask me questions like 17 that, please. 18 MR. VOLHEIM: Do you want to instruct your 19 client to answer the question, Brendan? 20 MR. LITTLE: Well, if you ask it properly. 21 MR. VOLHEIM: Q. Do you have any issues 22 with your memory, Bruce? 23 MR. LITTLE: What do you mean by "issues," 24 Nate? 25 MR. VOLHEIM: Q. Are you instructing your</p>
<p>Page 32</p> <p>1 client not to answer? 2 MR. LITTLE: No, I don't understand what 3 the question is regarding "issues". You can ask him if 4 he -- 5 MR. VOLHEIM: Do you have any problems 6 remembering things? 7 MR. LITTLE: -- has a medical issue. Do 8 you have a medical issue with your memory? That would 9 be an appropriate question. 10 MR. VOLHEIM: Q. Do you have problems 11 remembering things, Bruce? 12 MR. LITTLE: Form. 13 THE WITNESS: What types of things, Nate? 14 MR. VOLHEIM: Q. How about things you do 15 at work? 16 A. No. 17 Q. Okay. So now that we went over this, did 18 you review this document prior to last Wednesday? 19 A. Apparently so. 20 Q. What does "apparently" mean? It's a "yes 21 or a "no": Did you review this document prior to 22 Wednesday? 23 MR. LITTLE: Form. You can answer. 24 THE WITNESS: Yes. 25 MR. VOLHEIM: Q. Did you help provide the</p>	<p>Page 33</p> <p>1 answers contained in this document? 2 A. No. 3 Q. How do you know the answers are correct, 4 then, if you didn't help provide them? 5 A. I'm not sure how to answer that question. 6 I have -- We have internal, in-house counsel that 7 answers these. 8 Q. Who answered these questions? 9 A. I'm not sure. 10 Q. You don't know who answered these 11 questions? 12 A. I'm not sure who provided me the answers, 13 no, sir. 14 Q. So you are not sure who provided them. Do 15 you know the answers are correct? 16 A. I would have to read through the document. 17 Q. Okay. But if you go back to the last page 18 it says one of the things you attested to is: 19 He has read the foregoing responses to 20 the Plaintiff's Interrogatories, and 21 knows the contents thereof, and that the 22 statements of fact above are true to the 23 best of his knowledge, except those 24 matters alleged upon information and 25 belief, and that those matters he</p>

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1 believes them to be true.
2 So what did you base your belief that the
3 answers were true on, if you don't know who reviewed
4 them and you don't know if they are true?
5 MR. LITTLE: Form.
6 **THE WITNESS: I would have to trust the**
7 **system.**
8 MR. VOLHEIM: Q. What system?
9 **A. The system that we have in place to answer**
10 **these types of complaints.**
11 Q. So you didn't review whether or not these
12 answers are correct, you just trusted the system, and
13 signed off on it; is that fair to say?
14 MR. LITTLE: Form.
15 **THE WITNESS: Repeat the question?**
16 MR. VOLHEIM: Q. Did you review the --
17 When you signed off on this verification, did you
18 review whether or not the answers were true, or did you
19 just trust that the system would put down true answers?
20 **A. I trusted the --**
21 MR. LITTLE: Form.
22 **THE WITNESS: I trusted the system.**
23 MR. VOLHEIM: Q. Did you do any personal
24 investigation as to whether or not the answers were
25 true or accurate?

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1 of Defendants' Response?
2 **A. "Defendant did not receive any written**
3 **communication from plaintiff."**
4 Q. Okay. Did you help prepare that answer?
5 **A. I did not.**
6 Q. Do you know who made that response?
7 **A. I do not.**
8 Q. Do you know if that response is true or
9 not?
10 **A. To my knowledge, it's true.**
11 Q. And what are you basing your knowledge on?
12 **A. We didn't get any written communication**
13 **from Mr. Rigby.**
14 Q. What is your confidence level, 1 to 100,
15 with 100 being most confident, that you did not receive
16 any written correspondence from Mr. Rigby?
17 MR. LITTLE: Object to the form.
18 **THE WITNESS: That's a pretty big range,**
19 **don't you think?**
20 MR. VOLHEIM: Q. I'm not going to answer
21 questions from you, Bruce. I'm asking them today.
22 **A. Okay.**
23 Q. The same question, and we can have the
24 Court Reporter read it back, if you need to.
25 **A. My confidence level 1 to 100 that we did**

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1 **A. No, sir.**
2 MR. VOLHEIM: All right. Let's go off the
3 record.
4 (Brief discussion held off the record.)
5 MR. VOLHEIM: All right. We can go back
6 on the record.
7 Q. Bruce, I'm going to direct your attention
8 to an answer No. 18 -- excuse me -- Interrogatory
9 No. 18.
10 **A. Okay.**
11 Q. Let me know when you are there.
12 **A. I'm there.**
13 Q. Interrogatory 18 states:
14 "State whether you sent or received any
15 written correspondence, including
16 e-mails to and/or from the plaintiff in
17 the relevant time period.
18 "For each written correspondence, please
19 list the date and the content of the
20 written correspondence."
21 Do you see that interrogatory?
22 **A. Yup.**
23 Q. You don't need to list the dates -- or
24 strike that.
25 Read me the response, the first sentence

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1 **not receive any written communication from the**
2 **Plaintiff? I would have to say 100 percent, to my**
3 **knowledge.**
4 Q. Are you as confident -- Go ahead, sorry; I
5 don't mean to talk over you.
6 **A. To my knowledge, 100 percent.**
7 Q. Okay. Are you as confident in that
8 100 percent as you are confident in all the testimony
9 that you've given today?
10 MR. LITTLE: Form.
11 **THE WITNESS: Yes.**
12 MR. VOLHEIM: Q. Okay, great.
13 I'm going to ask you to turn to what's
14 been premarked as Exhibit H, and let me know when you
15 have that.
16 A. [Getting the document/reviewing the
17 Exhibit H] Okay.
18 Q. Have you seen -- oh, excuse me.
19 For the record Exhibit H is
20 correspondence sent from the Defendant to Plaintiff.
21 (Correspondence sent from Defendant to
22 Plaintiff marked Plaintiff's Exhibit H
23 for identification.)
24 MR. VOLHEIM: Q. Have you seen Exhibit H
25 before today?

<p>Page 38</p> <p>1 A. Yes. 2 Q. When is the first time you saw Exhibit H? 3 A. On Wednesday. 4 Q. The first page of Exhibit H is a letter 5 dated November 8th, 2018. Do you see that? 6 A. Yup. 7 Q. What is this document? 8 A. It's the -- our dunn notice that we sent 9 to the consumer. 10 Q. Based on your knowledge, not including 11 legal opinion, under what circumstances does the FDCPA 12 require the debt collector to send a dunning notice? 13 MR. LITTLE: Form. 14 THE WITNESS: Repeat the question? 15 MR. VOLHEIM: Can you please read that 16 back, Miss Saunders. 17 THE REPORTER: Of course. 18 (The following question was read by 19 the Reporter as requested: 20 "Question: Based on your 21 knowledge, not including legal 22 opinion, under what circumstances 23 does the FDCPA require the debt 24 collector to send a dunning 25 notice?")</p>	<p>Page 39</p> <p>1 THE WITNESS: We are required to send a 2 validation notice to the consumer. 3 MR. VOLHEIM: Q. When are you required to 4 send that validation notice? 5 A. First -- 6 MR. LITTLE: Form. You may answer. 7 THE WITNESS: With -- as soon as we 8 receive the debt. 9 MR. VOLHEIM: Q. When did Optio receive 10 the debt in this circumstance? 11 A. I believe it was August. 12 Q. If Optio received the debt in August, and 13 it has to send a written correspondence when it sends 14 the debt, why did it wait over three months to send the 15 dunning notice? 16 A. I need to take a moment to read this 17 letter, because I believe that I may have misstated 18 that this is the original -- this is not the original 19 validation notice that was sent. 20 Q. Go ahead. 21 A. [Reading the document] Where is that 22 first exhibit? Because I believe this is a follow-up. 23 This November 8th letter is a follow-up 24 letter -- this is not the original validation notice 25 that was sent in August.</p>
<p>Page 40</p> <p>1 Q. When you say a follow-up letter, what do 2 you mean by that? 3 A. Your client asked that we re-send the 4 letter. 5 Q. Okay. How did my client ask you to 6 re-send the letter? 7 A. Verbally. 8 Q. Okay. And I believe you testified earlier 9 that you were 100 percent confident that my client 10 never sent any written correspondence to Optio; is that 11 correct? 12 A. To my knowledge, yes. 13 Q. Why don't you go ahead and read the first 14 sentence of that letter dated November 8th, 2018. 15 A. [Reading] 16 "We are in receipt of your written 17 correspondence regarding Account 18 No. 4760109." 19 Q. Now that you've read that, I'm going to 20 ask you again: Did my client send any written 21 correspondence to Optio? 22 A. To my knowledge, I have never seen 23 anything. 24 Q. Okay. So, I want you to compare Exhibit D 25 and the answer that you allegedly verified on</p>	<p>Page 41</p> <p>1 Interrogatory No. 18, which says: 2 "Defendant did not receive any written 3 communication from Plaintiff," and I 4 want you to compare that with Exhibit H, which is a 5 letter sent by Optio, which says: 6 "We are in receipt of your written 7 correspondence regarding account 8 No. 460109." 9 Are both of those statements true? 10 A. Yeah, I -- I don't -- I don't recall ever 11 seeing anything from Mr. Rigby. 12 Q. Okay. So does that mean that Exhibit H 13 contains a false statement, or? 14 A. (Looking at the document) No, sir, I 15 don't believe the statement is false. 16 Q. Okay. So that means the statement, you 17 would agree with me, says, "we are in receipt of your 18 written correspondence"? 19 A. I see what it says, Nate. I'm just 20 unfamiliar with receiving anything personally. 21 Q. Okay. All right. Understood. 22 A. So I can't -- 23 Q. But you are -- 24 A. So I can't -- I can't -- 25 Q. Go ahead.</p>

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1 **A. I can't -- I can't tell you that I saw**
2 **something from Mr. Rigby, and that there's a**
3 **contradiction between Exhibit -- Exhibit H and**
4 **Exhibit D, I don't have that knowledge, I don't have**
5 **that information.**
6 Q. In Exhibit -- I'm not asking for your
7 personal information.
8 In Exhibit H, is Optio affirmatively
9 stating that they received written correspondence
10 from my client?
11 MR. LITTLE: Form.
12 **THE WITNESS: According to this, yes.**
13 MR. VOLHEIM: Q. Okay. In Exhibit D, in
14 its response to Interrogatory No. 18, did Defendant
15 affirmatively state that it did not receive any written
16 communication from my client?
17 **A. (Looking at the document) Yes, that's**
18 **what it says.**
19 Q. To your knowledge, which of these two
20 statements is true?
21 **A. Exhibit D, or I think -- yeah, it's D.**
22 Q. Okay. So if Exhibit D is true, does that
23 mean Exhibit H is false?
24 MR. LITTLE: Form.
25 **THE WITNESS: I don't believe that Exhibit**

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1 **A. Because I don't know which one would be**
2 **false. If either --**
3 Q. Do you agree that --
4 **A. -- I don't know which, if either one is**
5 **false, that -- he's taking -- he's taking Exhibit H out**
6 **of context, so.**
7 Q. How is he taking Exhibit H out of context?
8 **A. He being you, Nate. You are --**
9 Q. Okay. How am I taking Exhibit H out of
10 context?
11 **A. You are taking the entire letter, and you**
12 **are trying to ask me if the entire letter is false. I**
13 **don't believe it to be false.**
14 Q. I'm not asking you if the entire letter is
15 false. I'm asking you if the statement, the first
16 sentence -- I haven't asked you anything about the
17 entire letter. I've asked you if the first sentence is
18 true or false.
19 **A. I can't -- I don't know. I don't know**
20 **which it would be.**
21 Q. All right. Do you agree with me that
22 either that sentence is false, or Interrogatory
23 No. 18's response is false?
24 MR. LITTLE: Form.
25 **THE WITNESS: I -- based on -- on the**

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1 **H is in -- is false in the fact that we are letting**
2 **Mr. Rigby know his check number, the date, the amount,**
3 **who it was payable to.**
4 MR. VOLHEIM: Q. That's not what I'm
5 asking. I am going to cut you off, because we already
6 had this conversation.
7 All I care about right now is the first
8 sentence, which says:
9 "We are in receipt of your written
10 correspondence regarding account
11 No. 4760109."
12 **A. (Looking at the document)**
13 Q. Is that statement true or false?
14 MR. LITTLE: Form.
15 **THE WITNESS: I'm not sure. To my**
16 **knowledge, I've already explained that to you.**
17 MR. VOLHEIM: Q. Would you agree with me
18 that, either Exhibit H has to be false with respect to
19 that sentence, or Exhibit D has to be false with
20 respect to the first sentence of Interrogatory No. 18?
21 MR. LITTLE: Form.
22 **THE WITNESS: I couldn't answer that**
23 **question, Nate; I'm not sure.**
24 MR. VOLHEIM: Q. Why can you not answer
25 that question?

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1 **single sentence on Exhibit H and the Exhibit D, No. 18**
2 **Response, one would have -- it would appear one would**
3 **have to be false.**
4 MR. VOLHEIM: Q. But you don't know which
5 one it is.
6 **A. No, I do not.**
7 Q. When debt collectors send communications
8 to consumers, does the FDCPA require that they are
9 truthful and accurate?
10 MR. LITTLE: Form.
11 **THE WITNESS: Could you read the question**
12 **back to me please.**
13 (The following question was read by
14 the Reporter as requested:
15 "Question: When debt collectors
16 send communications to consumers,
17 does the FDCPA require that they
18 are truthful and accurate?")
19 **THE WITNESS: Well, yeah; but the debt**
20 **collectors don't send the letters. But, yes, they are**
21 **required to be truthful and accurate, yes.**
22 MR. VOLHEIM: Q. Who sent Exhibit H?
23 **A. I -- it's a system-generated letter.**
24 Q. What -- who owns or operates the system
25 that generated the letter?

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1 **A. I'm not sure.**
2 Q. Does Optio, are they -- are they the ones
3 that sent the letter?
4 **A. The letter would have come from Qualia**
5 **Collection Services.**
6 Q. Is that part of Optio?
7 **A. Yes.**
8 Q. I'm going to ask you to turn to page --
9 what's been premarked as Exhibit G, as in girl.
10 **A. Okay.**
11 MR. VOLHEIM: For the record, Exhibit G is
12 a call log produced by Defendant.
13 Q. Have you seen Exhibit G before today?
14 **A. On Wednesday.**
15 Q. Okay. Is that the first time that you've
16 seen Exhibit G?
17 **A. Yes, sir.**
18 Q. Okay. What is Exhibit G?
19 **A. It's our phone call log.**
20 Q. Okay. Are these outgoing calls or
21 incoming calls or a combination?
22 **A. To my knowledge, these would be both.**
23 Q. Okay. I'm going to ask you, on the first
24 page, seven lines down, there is an entry with a time
25 stamp of 83846. Let me know when you see that.

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1 **A. Yes; the number was manually dialed.**
2 Q. Okay. You can set that aside. We
3 probably will need that in a minute, so keep it close.
4 **A. Keep what close?**
5 Q. Exhibit G. I'm going to ask you to turn
6 back to what's been premarked as Exhibit F, as in
7 Frank, which would be the Account Notes.
8 **A. Okay.**
9 Q. I'm going to ask you to turn to Optio 44,
10 the Bates stamp at the bottom, it would be Optio 44.
11 **A. [Complies] Okay.**
12 Q. All right. With regards to Optio 44, did
13 Optio have a phone conversation with my client on
14 October 2nd, 2018?
15 **A. [Looking at document] Yes, at -- yes, go**
16 **ahead.**
17 Q. And at what time was that?
18 **A. 1409.**
19 Q. Okay. I assume that's military time?
20 **A. Correct.**
21 Q. Okay. And was that a call in which Optio
22 called my client?
23 **A. Correct.**
24 Q. Okay. And the number that Optio called
25 was (715) 966-4260?

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1 **A. Yup.**
2 Q. Okay. The date of that call is
3 October 12th, 2018; is that correct?
4 **A. Correct.**
5 Q. Okay. Now, is that a call -- is that an
6 outbound call that Optio placed, or is that an incoming
7 call?
8 **A. (Looking at the document) To my**
9 **knowledge, it's an outbound call.**
10 Q. Okay. So that by that, that means an
11 outbound call Optio placed to a phone number, correct?
12 **A. Correct.**
13 Q. Okay. What phone number did Optio call on
14 October 12th, 2018?
15 **A. (715) 966-4260.**
16 Q. Okay. And who -- whose phone number, to
17 the extent you know, whose phone number is that?
18 **A. To my knowledge, it's Mr. Rigby's phone.**
19 Q. Okay. So based on this dialer log, Optio
20 placed a phone call to my client on October 12th, 2018?
21 MR. LITTLE: Object to the form and your
22 characterization of calling it a "dialer log".
23 MR. VOLHEIM: Q. Based on this call log,
24 did Optio place a phone call to my client on October
25 12th, 2018?

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1 **A. Correct.**
2 Q. All right. So there are some notes under
3 that call. Can you go ahead and read me what those
4 notes say?
5 **A. [Reading]**
6 **Home phone, talked to, and then the home**
7 **phone's typed in there, HP, (715) 966-4260.**
8 **Talked to "X," which is the -- is the**
9 **check-writer in this case.**
10 **Gave the call recording and the Mini**
11 **Miranda.**
12 **I explained -- "IEF" stands for "I**
13 **explained facts".**
14 **I asked if he received letter.**
15 **"X" said yes, finally did receive it.**
16 **Said he can't pay anything today. Asked that we call**
17 **him in two weeks.**
18 **I said, "Okay, I will call you then."**
19 Q. Okay. So these are notes -- is it fair to
20 say these are notes that were typed by Optio's -- one
21 of Optio's collection agents?
22 **A. Yes.**
23 Q. And is that Agent V. Flores?
24 **A. Correct.**
25 Q. So I want to ask you a couple things about

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1 V. Flores's notes.
2 "MM," does that stand for Mini- -- you
3 stated that that stands for "Mini Miranda"; is that
4 correct?
5 **A. Correct.**
6 Q. What does that mean?
7 **A. The "Mini Miranda"?**
8 Q. Correct.
9 **A. It's what we are required to give on every**
10 **communication.**
11 Q. Okay. And is that Mini Miranda, "This is
12 an attempt to collect by a debt collector. Any
13 information will be used for that purpose"?
14 **A. Yes. Something like that, yes.**
15 Q. Okay. You said earlier that "X" stands
16 for the check-writer. Is -- does that mean that "X"
17 stands for my client, Erick Rigby?
18 **A. Yes.**
19 Q. Okay. Does Optio have a recording of this
20 phone call?
21 **A. No, sir.**
22 Q. Okay. On the phone call, Ms. Flores --
23 I -- is Flores -- Ms. Flores, is that a female or a
24 male?
25 **A. It's a male -- or a female, sorry.**

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1 Q. Ten days --
2 **A. From October 2nd to October 12th is**
3 **essentially ten working days, which what is we did.**
4 Q. Okay. You would agree with me that it
5 is -- two weeks is 14 days.
6 MR. LITTLE: Form.
7 **THE WITNESS: Well, yeah, technically, I**
8 **guess it would be.**
9 MR. VOLHEIM: Q. Okay. If I go back to
10 October 2018, that is a Tuesday. October 2nd, 2018 is
11 a Tuesday, do you have any reason for doubting me about
12 that?
13 **A. No; I don't have a calendar in front of**
14 **me, so I have to trust you.**
15 Q. Okay. And October 12th is a Friday.
16 October 12th, 2018 is a Friday. Do you have any reason
17 to doubt me about that?
18 **A. No.**
19 Q. Okay. In between those two dates is eight
20 working days.
21 **A. Okay.**
22 Q. Do you have any reason to doubt me about
23 that?
24 **A. No. I'm sure your math is correct.**
25 Q. So did Optio wait two weeks, by any

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1 Q. Okay. On these -- in these notes
2 Ms. Flores typed, "Asked that we call him in two
3 weeks." Is that correct?
4 **A. Correct.**
5 Q. Okay. And Ms. Flores also typed, "I said,
6 okay, I will call you then," is that correct?
7 **A. Correct.**
8 Q. And this conversation took place on
9 October 2nd, 2018, correct?
10 **A. Correct.**
11 Q. When is the next time that Optio placed a
12 phone call to my client?
13 **A. I don't see that on here.**
14 Q. Okay. If you go back to Exhibit G. . .
15 **A. [Complies] Yup.**
16 Q. Will that -- will that tell you the
17 next time that Optio placed a phone call to my client?
18 **A. Let's see. So the -- the Flores call was**
19 **on October 2nd, right?**
20 Q. Yes.
21 **A. And the next call would have been**
22 **October 12th. So that would --**
23 Q. Ten days after October 2nd.
24 **A. Two weeks, if you are -- there are two**
25 **working weeks, yes, just as --**

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1 definition, whether it's a full weak or a working week
2 of five days, did Optio wait two weeks before calling
3 my client again?
4 **A. It doesn't appear we waited the -- a full**
5 **14 days, no.**
6 Q. Did you wait the full ten days of working
7 days?
8 **A. Well, I guess not, no.**
9 Q. Why didn't Optio wait two weeks to call my
10 client --
11 **A. Nate --**
12 Q. -- as it said it would, and as he
13 requested?
14 **A. Nate, I can't answer that question. You**
15 **are talking about a year ago. I don't know. I don't**
16 **know why we didn't wait.**
17 Q. Did Optio have any policies or procedures
18 with regards to phone calls that it makes to a
19 consumer?
20 **A. Do we have any -- Repeat the question,**
21 **please?**
22 Q. Does Optio have policies and procedures
23 with regards to phone calls to consumers?
24 **A. Yes, of course.**
25 Q. Are those policies and procedures written

<p style="text-align: right;">Page 54</p> <p>1 or memorialized in writing in any way?</p> <p>2 A. Yes, we have them in writing.</p> <p>3 Q. What do those policies and procedures say</p> <p>4 regarding when a consumer asks Optio not to call for a</p> <p>5 certain period?</p> <p>6 A. Well, he didn't ask for us not to call</p> <p>7 him, right?</p> <p>8 Q. Well, he did for a certain period.</p> <p>9 A. [No response]</p> <p>10 Q. We can go back to the notes. Let's just</p> <p>11 go back to the notes. These aren't my words, these are</p> <p>12 Miss Flores's words, apparently --</p> <p>13 A. He --</p> <p>14 Q. -- asked that we call him in two weeks.</p> <p>15 A. Yeah.</p> <p>16 Q. So, based on Optio's policies and</p> <p>17 procedures, when should the next time Optio called my</p> <p>18 client have been?</p> <p>19 MR. LITTLE: Form.</p> <p>20 THE WITNESS: I would imagine, I guess it</p> <p>21 would have to have been the 16th. But you are counting</p> <p>22 four weekend days in there, so.</p> <p>23 MR. VOLHEIM: Okay. I think we've been</p> <p>24 going for quite a while. Why don't we -- Would anyone</p> <p>25 like to take break?</p>	<p style="text-align: right;">Page 55</p> <p>1 MR. LITTLE: Sure.</p> <p>2 (Recess taken from 11:27 a.m. to 11:47</p> <p>3 a.m.)</p> <p>4 MR. LITTLE: So, I'm back, and you can go</p> <p>5 ahead.</p> <p>6 MR. VOLHEIM: Thank you. All right, back</p> <p>7 on the record, please.</p> <p>8 Q. Okay. Bruce, we just took a short break</p> <p>9 of about ten minutes, and you understand that you are</p> <p>10 still under oath and subject to the penalty of perjury;</p> <p>11 is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So I do not want to know the</p> <p>14 substance of anything, any conversation you may have</p> <p>15 had. However, during that break, did you talk to</p> <p>16 either your attorney or Mr. -- either of your attorneys</p> <p>17 about your testimony today?</p> <p>18 A. Not specifically about the testimony, no.</p> <p>19 Q. Okay. Did you talk to them about your,</p> <p>20 Well, strike that.</p> <p>21 All right. When we left off we were</p> <p>22 looking at Optio 044, which is a page within</p> <p>23 Exhibit F. Do you have that in front of you?</p> <p>24 A. Hang on. Here it is. Yes.</p> <p>25 Q. Okay. So how -- In this situation, when a</p>
<p style="text-align: right;">Page 56</p> <p>1 consumer asks to be contacted in two weeks, how does</p> <p>2 Optio ensure that a phone call will not take place for</p> <p>3 two weeks?</p> <p>4 A. The -- when a check-writer or a consumer</p> <p>5 asks us for a follow-up call, as Mr. Rigby did here,</p> <p>6 and it's not an exact, "Hey, call me in 14 days</p> <p>7 exactly," it's -- you know, if someone says, "Give me a</p> <p>8 call next week," you know, we'll call them next week.</p> <p>9 Unless they -- unless they -- if she would</p> <p>10 have put in here in the notes that Mr. Rigby requested</p> <p>11 to be called on the -- on the 16th of October, then</p> <p>12 that would be a more definitive -- you know, that would</p> <p>13 have been a situation where she would have then had to</p> <p>14 wait until the 16th.</p> <p>15 Q. Okay. And what was -- what stopped Optio</p> <p>16 from calling my client between October 2nd, 2018 and</p> <p>17 October 12th, 2018?</p> <p>18 A. What stopped us? Was that the --</p> <p>19 Q. Yeah; was there any sort of code or block,</p> <p>20 or anything put within the system?</p> <p>21 A. No, sir.</p> <p>22 Q. Okay. So how did Optio know that my</p> <p>23 client did not want to be contacted for two weeks?</p> <p>24 A. It's in the notes there. So the next time</p> <p>25 they brought up the claim, they would see the notes,</p>	<p style="text-align: right;">Page 57</p> <p>1 and they would wait.</p> <p>2 Q. Okay. The phone call on October 12th,</p> <p>3 2018, who was that made by, what representative of</p> <p>4 Optio?</p> <p>5 A. Do you know what page that's on in the</p> <p>6 Exhibit F?</p> <p>7 Q. I do not. I mean, I would guess it would</p> <p>8 be right after probably the page prior, 43 would be my</p> <p>9 guess.</p> <p>10 A. Let's see. Yes, it was the -- on page 43,</p> <p>11 it was at 8:40 in the morning by Miss Flores.</p> <p>12 Q. Okay. So the same person that called and</p> <p>13 spoke with my client on October 2nd, 2018, also called</p> <p>14 and spoke with my client on October 12th, 2018.</p> <p>15 A. Correct.</p> <p>16 Q. Okay. If you look at the notes by</p> <p>17 Ms. Flores on October 12th, 2018, and you go to the end</p> <p>18 of her notes, it says, "I let him know we've been</p> <p>19 call --" and then it appears, and please correct me if</p> <p>20 I'm wrong, it appears that that note is cut off and</p> <p>21 continued on the next page. Is that correct?</p> <p>22 A. Yes, that would be correct.</p> <p>23 Q. Okay. Now, does Optio record any of its</p> <p>24 phone calls with consumers?</p> <p>25 A. The only calls that we would record would</p>

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1 **be payment calls.**
2 Q. How do you know if a call is going to
3 resort -- excuse me -- result in a payment call?
4 **A. I would have a conversation with the**
5 **consumer, and we would agree on a payment plan or on a**
6 **single payment. And at that point, once we agreed on**
7 **what was going to be paid, how much and when, we would**
8 **then ask for the information to take care of the**
9 **payment.**
10 **At that point we would then record the**
11 **information that we take to process the payment.**
12 Q. Okay. So, Optio will not -- I don't know,
13 for lack of a better term, push "play" or push
14 "record," until a payment agreement is paid verbally.
15 **A. Yeah; we don't have the ability to do**
16 **that.**
17 Q. I'm sorry, you don't have the ability to
18 do what?
19 **A. There's no button to push to record on the**
20 **system.**
21 Q. Okay. Then, how does a recording start?
22 **A. We use a hand-held recording device that's**
23 **attached to the phone that records both the consumer**
24 **and the collector.**
25 Q. What is the name or model number, to the

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1 somebody else?
2 **A. Correct. They fill out the form and they**
3 **do the recording.**
4 Q. Okay. How many payments did my client
5 make to Optio?
6 **A. To my knowledge -- well, I'm not sure.**
7 **To my knowledge, I thought -- I wasn't**
8 **sure if one of the checks cleared or not. Other than**
9 **that, if you can take a moment -- or if you can give me**
10 **a moment, I'm going to have to go through the -- the**
11 **Exhibit F to see if we received any payments from him.**
12 Q. Take your time.
13 **A. [Reviewing] Yeah, I don't see any**
14 **payments, Nate. [Having gone through some documents]**
15 Q. Okay. Did my client make, verbally over
16 the phone make any promises to pay with Optio that
17 would prompt Optio to record his conversation with it?
18 **A. No; because there was nothing ever agreed**
19 **on. He never -- we never took a payment from him, so**
20 **we would not have recorded any of those promise-to-pay**
21 **conversations.**
22 Q. To your knowledge, did Optio produce any
23 recordings throughout -- to me throughout the course of
24 this litigation?
25 **A. Yes, one.**

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1 extent you know, of this hand-held device?
2 **A. I -- I don't know, Nate.**
3 Q. Is it -- I mean, is this device like, I
4 don't know, what you see in the -- in the movies, when
5 someone is taking notes to themselves, you know, the
6 hand-held little mini-recorder, is that kind of what
7 you are talking about?
8 **A. Yeah, the -- Yes, that's -- yeah, that's**
9 **exactly what it is.**
10 Q. Does it run on a -- is it digital, or does
11 it run on tape?
12 **A. I'm not -- I'm not sure, I believe it --**
13 **MR. LITTLE: Only if you know, Bruce. I**
14 **don't want you to guess.**
15 **THE WITNESS: Yeah, I'm not sure.**
16 **MR. VOLHEIM: Q. Do you ever make**
17 **outgoing phone calls in your capacity as Vice President**
18 **any more?**
19 **A. I do.**
20 Q. Do you have that recording -- or, excuse
21 me -- that recording device, do you have that handy
22 when you make those calls?
23 **A. I do not, because I don't record payments.**
24 Q. Okay. So, if you are on a call and a
25 consumer wants to make a payment, you transfer that to

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1 Q. Okay. If my client didn't make any
2 promise to pay, then why did Optio record that
3 conversation?
4 **A. I forgot that we did take -- we did have**
5 **an arrangement with him on one payment, but I don't see**
6 **anywhere in the Exhibit F that we -- that the payment**
7 **ever went through.**
8 **But, yes, I forgot, we did do -- we did**
9 **take -- we did have a conversation on one payment**
10 **that was -- that he had agreed to take care of.**
11 Q. Okay. Other than that recording, does
12 Optio have any other recordings with respect to my
13 client -- I'll just leave it there: Other than the one
14 recording you just referenced, does Optio have any
15 other recordings regarding my client?
16 **A. No, sir.**
17 Q. Okay. When -- this account -- I believe
18 you stated this account was placed by CrossCheck with
19 Optio in I believe early September. Is that about
20 right?
21 **MR. LITTLE: Form.**
22 **THE WITNESS: I would have to look at**
23 **Exhibit F, but I believe that's accurate.**
24 **MR. VOLHEIM: Q. Okay. Well, why don't,**
25 **just to be accurate, I am not -- I assure you, I am not**

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1 trying to cross you up, I just can't remember the date,
2 either. Why don't you look at Exhibit --
3 MR. LITTLE: August 28, 2018.
4 MR. VOLHEIM: Q. Does the date of
5 August 28th, 2018, sound right, Bruce?
6 **A. Yes, sir.**
7 Q. Okay. When this account was placed with
8 Optio by CrossCheck, was Optio given any documents
9 related to my client?
10 **A. We would have received a -- the -- a copy**
11 **of the check.**
12 Q. What else would Optio have received?
13 **A. I'm not sure if Ashley provided us an**
14 **invoice or not; I would have to look.**
15 Q. Okay. Did Ashley provide you -- Well,
16 let's take a step back, because you just said "Ashley".
17 Who did the information come from, Ashley
18 or CrossCheck?
19 **A. Well, the -- the claim is through**
20 **CrossCheck. Ashley is who we do the check guarantee**
21 **for, who CrossCheck does the check guarantee for.**
22 Q. Okay. So, as it relates to either Ashley
23 or CrossCheck, did they provide Optio with any phone
24 numbers upon placement?
25 **A. Yes.**

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1 mother start?
2 **A. On -- at the bottom, I believe it's the**
3 **January 7th, 2019, at 11:25 a.m.**
4 Q. And the phone number called is
5 (757) 319-0842; is that correct?
6 **A. Correct.**
7 Q. Where did CrossCheck -- strike that.
8 Where did Optio obtain that phone number?
9 **A. Without looking at the documents, I'm not**
10 **sure, Brendan -- or, Nate -- sorry.**
11 Q. What documents would you need to look at?
12 **A. The Ashley Furniture paperwork.**
13 Q. Okay. I think what you want to look at --
14 or what you are asking for is Exhibit I, as in Igloo,
15 so go ahead and pull that out, and let me know when you
16 have -- when you are done.
17 **A. Yes, I have it.**
18 Q. Okay. So, for the record, Exhibit I is
19 Bates Optio 9 through -- excuse me, strike that --
20 Optio 6 through 9. Are these -- have you seen these
21 documents before today?
22 **A. I have not, actually.**
23 Q. Okay. Are these documents that were
24 provided by Ashley to Optio?
25 **A. It appears to be, yes.**

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1 Q. What phone number or phone numbers did
2 they provide Optio?
3 **A. The (715) 966-4260.**
4 Q. Okay. Other than that phone number, did
5 either Ashley or CrossCheck provide any other phone
6 numbers to Optio?
7 **A. Not that I'm aware of.**
8 Q. Okay. Did Optio call any other phone
9 numbers regarding my client?
10 **A. We did a --**
11 MR. LITTLE: Form.
12 **THE WITNESS: We did a location**
13 **information call to Mr. Rigby's mother.**
14 MR. VOLHEIM: Q. Okay. Do you know the
15 date that that location information call took place?
16 **A. You are going to have to give me a second**
17 **to find it.**
18 Q. Okay. I think -- I just want to help -- I
19 think you are going to be looking at Bates 25 within
20 Exhibit F?
21 **A. Okay, I'm on page 25. Let's see, which**
22 **way does this go. It's actually on -- it's on page 24**
23 **and 25.**
24 Q. Okay. Let's start with page 24, then.
25 Where does the entry related to the call to my client's

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1 Q. Okay. Do you know when these documents
2 were provided by Ashley to Optio?
3 **A. I do not.**
4 Q. Okay. I'm going to direct your attention
5 to Bates -- to the second page, which would be
6 Optio 006.
7 **A. Yes.**
8 Q. In the -- under the "Bill To" is my
9 client's name. Do you see that?
10 **A. Yes.**
11 Q. There is a phone number listed there of
12 (715) 966-4260. Do you see that?
13 **A. I do.**
14 Q. Do you see any other phone numbers listed
15 on that document? And I understand if you need to take
16 a minute to look.
17 **A. I do not.**
18 Q. Okay. Turning to Optio 8, this would be
19 the last page of Exhibit I, you see the phone number
20 (715) 966-4260. Let me know if you see that.
21 **A. I do.**
22 Q. All right. To your -- and do you see any
23 other phone numbers listed on this page?
24 **A. I do not.**
25 Q. Okay. Was the phone number

<p style="text-align: right;">Page 66</p> <p>1 (715) 966-4260, who was that provided by?</p> <p>2 A. On -- are we looking -- are you asking me</p> <p>3 in reference to document 008?</p> <p>4 Q. Yes. Who filled out document 008?</p> <p>5 A. I -- I have no idea. I would assume Erick</p> <p>6 did.</p> <p>7 Q. Okay. So feel free to look through</p> <p>8 Exhibit I, which are all the documents produced by</p> <p>9 Optio. Does Exhibit I tell you where the phone number</p> <p>10 (757) 319-0842 came from?</p> <p>11 A. That number's not listed on any of the</p> <p>12 Exhibit I.</p> <p>13 Q. Okay. Do you -- Are there other documents</p> <p>14 that you need to review which were provided by either</p> <p>15 Ashley or CrossCheck which would tell you where the</p> <p>16 phone number ending in 0842 came from?</p> <p>17 A. Repeat the question, please.</p> <p>18 Q. Sure. Are there other documents, outside</p> <p>19 of Exhibit I, which would tell you where the phone</p> <p>20 number "0842" came from?</p> <p>21 A. I'm not -- I'm not sure if there's any</p> <p>22 other documents, or not. I don't see any. Do you have</p> <p>23 any other exhibits?</p> <p>24 Q. I don't. So I guess my question to you</p> <p>25 is, where did the phone number (757) 319-0842 come</p>	<p style="text-align: right;">Page 67</p> <p>1 from?</p> <p>2 A. We probably did some Skip Tracing on</p> <p>3 Mr. Rigby's account. And I'm sure it probably was</p> <p>4 generated from that.</p> <p>5 Q. Okay. So just to make sure we're talking</p> <p>6 about the same thing, "Skip Tracing" is where -- Well,</p> <p>7 why don't you explain to me what "Skip Tracing" is.</p> <p>8 Let me not guess.</p> <p>9 A. We do searches for the consumers to find</p> <p>10 other phone -- central phone numbers to reach them. If</p> <p>11 we're having -- if we're not successful in making</p> <p>12 contact with them, we have -- we look for asset</p> <p>13 searches, we look for property, that sort of thing.</p> <p>14 Q. Okay. Other than on January 7th, 2019,</p> <p>15 did Optio call the phone number ending in "0842" any</p> <p>16 other times?</p> <p>17 A. Let me look at the document real quick.</p> <p>18 Which page was the call on again?</p> <p>19 Q. That was on 24 and 25 of Exhibit . . .</p> <p>20 A. F.</p> <p>21 Q. F.</p> <p>22 A. Okay, yeah. [Reviewing documents]</p> <p>23 So the question is is did we call back</p> <p>24 the phone number ending in 0842 after January 7th; is</p> <p>25 that correct?</p>
<p style="text-align: right;">Page 68</p> <p>1 Q. The question is did you call at any other</p> <p>2 times, other than January 7th, 2019, either before or</p> <p>3 after.</p> <p>4 A. Oh. No, sir.</p> <p>5 Q. Okay. If Optio had my client's phone</p> <p>6 number which he provided to CrossCheck -- excuse me,</p> <p>7 strike that.</p> <p>8 If Optio had my client's phone number</p> <p>9 ending in 4260, which he provided to Ashley, why did it</p> <p>10 call the phone number 0842?</p> <p>11 A. Because we had made several attempts at</p> <p>12 the number ending in 4260 to reach Mr. Rigby again</p> <p>13 after he had requested callbacks and whatnot, and all</p> <p>14 we were getting was his answering machine.</p> <p>15 Q. When, if ever -- When is the closest time,</p> <p>16 if ever, prior to January 7th, 2019 that Optio spoke</p> <p>17 with my client?</p> <p>18 A. So you want to know when the last phone</p> <p>19 call was that we talked to Mr. Rigby prior to the 7th?</p> <p>20 Q. That's correct.</p> <p>21 A. Let's see. [Reviewing] It appears that</p> <p>22 the last contact was December 18th, 2018 at 10:02.</p> <p>23 Q. If Optio knows -- or if it has a number</p> <p>24 for a consumer, but is not able to get ahold of that</p> <p>25 consumer, how long will it wait before it calls a</p>	<p style="text-align: right;">Page 69</p> <p>1 different phone number?</p> <p>2 A. It depends.</p> <p>3 Q. What does it depend on -- Oh, I'm sorry,</p> <p>4 go ahead.</p> <p>5 A. It depends on how -- you know, the time</p> <p>6 frame, so it would typically be five to seven days.</p> <p>7 Q. Is there a policy or a procedure by Optio</p> <p>8 which determines how long it will wait before calling a</p> <p>9 different number?</p> <p>10 A. Not -- there's nothing -- there is not a</p> <p>11 written policy. Our internal policy is to wait five to</p> <p>12 seven days.</p> <p>13 Q. Okay. What other phone numbers, other</p> <p>14 than the number ending in 4260 or 0842, did Optio call</p> <p>15 attempting -- with regards to my client?</p> <p>16 A. Again, I'm going to have to look through</p> <p>17 the notes.</p> <p>18 Q. Sure.</p> <p>19 A. Let's see. [Reviewing] These are so hard</p> <p>20 to read in this format . . .</p> <p>21 It looks like we made an attempt to, on</p> <p>22 the 7th as well, to try and reach a relative, I don't</p> <p>23 know the name of the relative, at phone number (757)</p> <p>24 484-8139, and then -- and the phone was never</p> <p>25 answered.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. Okay. And what page are you looking at 2 there? 3 A. 24. 4 Q. Okay. Any other numbers other than that 5 one? 6 A. We made a call to (757) 642-3875, and that 7 phone number was -- someone picked up and hung right 8 up. We didn't speak to anybody. 9 Q. Okay. 10 A. We also -- 11 Q. Any other numbers? 12 A. We also spoke, or made an attempt to 13 (757) 686-2439, and that number just beeped, it 14 didn't -- it didn't ring to a phone, or anything. 15 Q. Okay. So with regards to the phone 16 numbers ending in 2439, 3875, and 8139, were those 17 numbers obtained via Skip Trace? 18 A. Yes. 19 Q. I'm going to direct your attention to 20 what's been -- to Exhibit F, you are just going to go 21 forward a few page to 21, Bates 21? 22 A. Okay. 23 Q. All right. There is a note there about a 24 conversation that Optio had with someone, and I'm 25 referring to the one at 1734. Do you see that?</p>	<p style="text-align: right;">Page 71</p> <p>1 A. Yes. 2 Q. Okay. Can you read me the account notes 3 there. 4 A. [Reading]: January 8th, 2019: 1734, home 5 phone, talked to -- and then it puts the phone number 6 of (715) 966-4260, talked to man, authorized Erick 7 Rigby, gave the call recording and the Mini Miranda. 8 I explained facts. 9 He stated, sorry, I have someone working 10 with me, correcting my credit, and they will fix 11 everything. I do not need to talk to you. 12 And he ended the call. 13 Q. Okay. So, a couple questions. You said, 14 "CR," that that -- you said, I think you indicated that 15 that stands for "call recording"? 16 A. Yeah. 17 Q. Okay. 18 A. Call to -- 19 Q. Go ahead, Bruce. 20 A. It's -- "CR" is call recording, or call 21 disclosure. 22 Q. Okay. And what does that disclosure say? 23 A. I don't have that memorized, Nate. I have 24 it -- it's on a card in front of me at work. 25 Q. Okay. Why, to your knowledge, why does</p>
<p style="text-align: right;">Page 72</p> <p>1 Optio give a disclosure that calls will be recorded, 2 when its practice is to only record calls where payment 3 is being made? 4 A. It's -- because we give the Mini Miranda 5 as well. 6 Q. Okay. I think in there you said, I do not 7 need -- or my client said, "I do not need to talk to 8 you," and ended call. Is that correct? 9 A. Yes. 10 Q. Did Optio make any further phone calls to 11 my client's phone number ending in 4260, after 12 January 8th, 2019? 13 A. Let's see. 14 Q. And if you need to obviously reference 15 Exhibit G, feel free to do so. 16 A. Yes, it looked like we did. 17 Q. I'm going to ask you to flip ahead one 18 page to Bates 20. 19 A. [Complies] 20 Q. In the middle of the page there is a black 21 redaction. Do you see that? 22 A. Yes. 23 Q. Okay. What information is contained 24 within that redaction? 25 A. I have no idea.</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. LITTLE: Okay. I'm going to object to 2 the form at this point. I spoke to Teddy about this. 3 That was notes made by internal counsel, and redacted, 4 the notes were redacted based on the attorney-client. 5 So I am objecting to the form, and 6 telling Mr. Volheim, that I spoke to Teddy -- and I 7 will butcher his last name, I always do -- and his 8 office, and he inquired about that, and the 9 redactions are internal -- or inside counsel's notes 10 with respect to the file, and they are redacted for 11 the attorney-client privilege. 12 MR. VOLHEIM: For the sake of today's 13 conversation, it's fine, Ms. Saunders, to just spell it 14 T-e-d-d-y. We all know who he is and, thus the record 15 will be clear. 16 Q. All right. So what date -- I'm sorry, 17 Bruce, what date was the notes for the redaction made? 18 A. I can't see the date. 19 Q. Underneath the redaction there is a date 20 of January 15th, 2019. Do you see that? 21 A. Yes. 22 Q. Okay. Would that entry give you any 23 information as to what date the redaction was made, the 24 note with the redaction was made? 25 A. No.</p>

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1 Q. What was the last date that Optio placed a
2 phone call to my client?
3 **A. January 15th, 2019.**
4 Q. To the extent that you know, why did Optio
5 stop placing phone calls to my client after
6 January 15th, 2019?
7 **A. (Looking at the document) I'm not sure.**
8 Q. All right, we're getting near the end
9 here.
10 I'm going to direct your attention....
11 we're within Exhibit F, and I'm sorry, I have got to
12 flip around now, I apologize.
13 Okay. I'm going to direct your
14 attention to what's been premarked as Exhibit --
15 well, excuse me, Exhibit F, on page 33 is what I am
16 on now.
17 **A. [Flipping to the document] Okay.**
18 Q. All right. At the bottom of Exhibit -- or
19 excuse me, page 33, there is an entry on December 12th,
20 2018 at 16:34:55. With regards to that time, I believe
21 you testified earlier that is military time?
22 **A. Correct.**
23 Q. Okay. Would that be 4:34:55- -- so would
24 that be 4:34 p.m.? **A. Correct.**

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1 four up from the bottom, so it would be 1633 is the
2 start time.
3 **A. Oh, the one that was for one second?**
4 Q. Correct.
5 **A. It appears to be an outbound.**
6 Q. Okay. The call at 1524 and 36 seconds, is
7 that an outbound or an inbound call?
8 **A. It appears to be an outbound.**
9 Q. The call at 1529 and 58 seconds, is that
10 an outbound call or an inbound call?
11 **A. It appears to be outbound.**
12 Q. Why did Optio call my client approximately
13 five minutes apart?
14 **A. I'm not -- I would have to go back to the**
15 **notes and look and see.**
16 Q. Okay, feel free to do so.
17 **A. [Looking at the notes] So we made one at**
18 **12:12 -- or, I'm sorry, on 12/12 at 1652 -- oh, that**
19 **was an inbound call, sorry.**
20 Q. Can you direct me to what page you are
21 looking at?
22 **A. Yeah, I'm just trying to -- Nate, I am**
23 **trying to get all the -- the calls. They are in --**
24 **they are kind of -- the order is kind of funky, so I'm**
25 **just trying to put together the -- the actual call that**

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1 Q. And is that Pacific Standard Time, or what
2 time is that?
3 **A. I believe it's Pacific Standard Time.**
4 Q. Okay. In that note, did my client state
5 that he had been called four times today, and that's
6 harassment, and that he does not want phone calls from
7 Optio any more?
8 **A. Correct.**
9 Q. How many times did Optio call my client on
10 December 12th, 2018?
11 **A. I need to reference Exhibit G.**
12 Q. Okay. Please feel free to do so.
13 **A. What was the date again?**
14 Q. December 12th, 2018.
15 **A. Looked like one that lasted 16 seconds,**
16 **another one that lasted 16 seconds, an incoming call;**
17 **And then another one that lasted a**
18 **minute, seven;**
19 **And then an incoming -- inbound call.**
20 **And then that's it.**
21 Q. Okay. The entry on -- at 1633, was that
22 an outgoing call or an inbound call?
23 **A. 1633. And what -- Are you looking at an**
24 **Exhibit?**
25 Q. Yes, I'm sorry. In Exhibit G, it's about

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1 belongs to what call.
2 **So, it's -- all of the conversation is**
3 **going to be based on page 32 and 33.**
4 **Looks like we made the call, outbound,**
5 **at 1634, and that's the one that we already talked**
6 **about, that he said he did not want any more calls**
7 **from us.**
8 **And then, at 1652, he called back in. He**
9 **was -- yeah, he called back in at 1652.**
10 **And then . . . That was the next day.**
11 **[Reviewing] That's what I have in the notes.**
12 Q. Okay. So I'm not sure, but I don't think
13 that answered my question. My question was certainly
14 not about the 1652 call, or the 1634 call.
15 My question is about the call, the two
16 calls: One at 1524 and 36 seconds, and the other at
17 1529 and 58 seconds. Those two calls are about five
18 minutes apart, and my question is why did Optio place
19 two calls to my client within approximately five
20 minutes?
21 **A. I don't know.**
22 Q. Does Optio have a policy or a procedure
23 about how long it should wait between calls to
24 consumers?
25 **A. Well, it depends on the content of the**

<p style="text-align: right;">Page 78</p> <p>1 conversation. So, if he asked us to call him back, and 2 we tried to call, and something happened on the line -- 3 and the calls are -- the call times are short, right, 4 they are 16 seconds -- 5 Q. Yes. 6 A. -- and 16, seconds. 7 So, something might have happened on the 8 phone line, something might have happened -- I mean, 9 this is his cell phone -- so he could have been -- it 10 could have been -- I don't know, it could have been a 11 number of things that we could have called back like 12 that, but the fact that the calls are so short tells 13 me there wasn't a conversation. 14 Q. Okay. Is there anything in the account 15 notes with respect to Exhibit F, which indicate what 16 happened during those two calls. And again, for 17 clarity, the 1524 and 36 seconds and the 1529 and 58 18 seconds. 19 A. No, there's nothing in the call notes that 20 talks about those two calls specifically. 21 Q. In fact, there is no entries in the 22 account notes with regards to those two calls; is that 23 correct? 24 A. That's correct. 25 Q. Okay. What would that indicate to you,</p>	<p style="text-align: right;">Page 79</p> <p>1 that there are no entries within the account notes? 2 A. It's hard to say. It could have been what 3 I just described, that they called and -- and got a 4 fast busy, they called, and it didn't go through . . . 5 I mean, there is -- you know, I -- I -- there's no way 6 to definitively give you an answer about that, because 7 I don't -- I don't know, I wasn't the one who made the 8 phone calls. 9 Q. Okay. So you were -- those possible 10 answers you are giving me are hypothetical guesses by 11 you; is that fair to say? 12 MR. LITTLE: Form. 13 THE WITNESS: Yes, that would be correct. 14 MR. VOLHEIM: Q. Is it also possible that 15 a representative of Optio just decided to call a phone 16 number within approximately five minutes of each other? 17 MR. LITTLE: Form. 18 THE WITNESS: It would be possible, but -- 19 it could have been possible because of what I 20 explained. 21 MR. VOLHEIM: Q. I'm going to direct your 22 attention back to Optio 32, going into 33. There is a 23 note, which I think it begins on 32, of a conversation 24 Optio had with my client. Does that actually -- it 25 looks . . . Hold on a moment, I apologize.</p>
<p style="text-align: right;">Page 80</p> <p>1 The conversation that starts on 33 at -- 2 that said he has too many other expenses, do you see 3 that? 4 A. Yes. 5 Q. Okay. Obviously, that's the middle of a 6 conversation, correct? 7 A. Well, it started on page 32. 8 Q. Okay, great. So, let's go to page 32. 9 What date was the date of that phone call? 10 A. 12/12. 11 Q. Okay. And that phone call ends with, "EXT 12 Linda call him tomorrow." What does that mean? 13 A. Well, he called in and spoke to a 14 collector in my department, and the -- explained, Linda 15 will call him tomorrow. 16 And if you read through the entire 17 entry, it says, he has too many other expenses, this 18 is not his priority, said that he can pay \$100 a 19 month, if we want it, said -- on page 32, he says he 20 can't pay anything until January. 21 Said that if -- that he is just trying 22 to fix one bill at a time. 23 Explained I will review it, and see if I 24 can accept his proposal. 25 And then he said -- then the collector</p>	<p style="text-align: right;">Page 81</p> <p>1 told him that Linda, who he had had previous 2 conversations with, would give him a call back 3 tomorrow. 4 Q. Okay. And when did Linda call him back? 5 A. Let's see. [Reviewing] Looks like Linda 6 returned his phone call on the 13th at 1502. And they 7 discussed the payment plan that's -- that you read in 8 the note entry. 9 Q. If my client -- strike that. 10 Bruce, I don't have -- and let me make 11 sure. So going back to Exhibit D. 12 A. Exhibit D, as in David? 13 Q. D, as in David. 14 A. Okay. 15 Q. Last page, your verification: Who 16 directed or asked you to sign this verification page? 17 A. Our in-house legal department prepares the 18 documents. 19 Q. Do you know who gave you the document to 20 sign? 21 A. I -- I don't. It was almost six months 22 ago, so I don't remember who physically handed me the 23 document to sign it. 24 Q. Could it have been Mrs. McLean? 25 A. No.</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. Did you review any documents prior --</p> <p>2 related to this case, prior to signing that</p> <p>3 verification?</p> <p>4 A. Wait. Say that again?</p> <p>5 Q. Did you review any documents related to</p> <p>6 this case -- excuse me, strike that.</p> <p>7 Did you review any documents or materials</p> <p>8 related to this litigation prior to signing that</p> <p>9 verification page?</p> <p>10 A. I don't recall.</p> <p>11 Q. And do you -- strike that.</p> <p>12 MR. VOLHEIM: All right. Bruce, I don't</p> <p>13 have any other questions for you, subject to whatever</p> <p>14 Mr. Little may ask you. Thank you for your time.</p> <p>15</p> <p>16</p> <p>17 EXAMINATION BY MR. LITTLE:</p> <p>18 MR. LITTLE: Q. Good afternoon, Bruce. I</p> <p>19 just have a couple follow-up questions regarding what</p> <p>20 Mr. Volheim asked you this morning and into this</p> <p>21 afternoon.</p> <p>22 We've talked about several telephone</p> <p>23 communications between Mr. Rigby and Optio Solutions,</p> <p>24 looking at Exhibits F and G. Do you recall that</p> <p>25 dialogue today with Mr. Volheim?</p>	<p style="text-align: right;">Page 83</p> <p>1 A. Yes.</p> <p>2 Q. In any of the outbound calls made by Optio</p> <p>3 to Mr. Rigby, were those manually-dialed calls, or</p> <p>4 automatic -- automatically-generated calls?</p> <p>5 A. All --</p> <p>6 MR. VOLHEIM: Objection. Foundation.</p> <p>7 Calls for a legal conclusion. Go ahead.</p> <p>8 THE WITNESS: All manual.</p> <p>9 MR. LITTLE: Q. And when you say</p> <p>10 "manual," can you explain what you mean by that?</p> <p>11 A. We don't use an automated telephone</p> <p>12 dialing system.</p> <p>13 MR. VOLHEIM: Brendan, let me just -- I</p> <p>14 don't mean to cut you off, you have been very good not</p> <p>15 to cut me off. I'll stipulate on the record to</p> <p>16 withdraw the TCPA claim.</p> <p>17 MR. LITTLE: Okay. So stipulated that</p> <p>18 Plaintiff is withdrawing his TCPA claim.</p> <p>19 MR. VOLHEIM: Hold on. With prejudice --</p> <p>20 Hold on, maybe we should talk about this?</p> <p>21 Let's go off the record for a record.</p> <p>22 MR. LITTLE: Sure.</p> <p>23 (Brief discussion held off the record.)</p> <p>24 MR. LITTLE: All right. Mr. Volheim and I</p> <p>25 had a conversation off the record, and we're now back</p>
<p style="text-align: right;">Page 84</p> <p>1 on the record.</p> <p>2 And Mr. Volheim, correct me if I'm</p> <p>3 wrong, but Plaintiff is withdrawing her -- excuse</p> <p>4 me -- his TCPA Claim with prejudice, both sides to</p> <p>5 bear their respective costs and fees. Is that</p> <p>6 correct, Mr. Volheim?</p> <p>7 MR. VOLHEIM: That is correct.</p> <p>8 MR. LITTLE: Okay, thank you.</p> <p>9 Q. Bruce, we talked about a letter, as</p> <p>10 Exhibit H, this morning and this afternoon. Do you</p> <p>11 recall the letter dated November 8th of '18, if you</p> <p>12 could put it in front of you?</p> <p>13 A. Yes, I have it.</p> <p>14 Q. Okay. And is this letter manually typed</p> <p>15 by someone, or is this a letter that's automatically</p> <p>16 generated by a system or a computer system?</p> <p>17 A. It's a system-generated letter.</p> <p>18 Q. And under what circumstances would a</p> <p>19 letter like this be sent to a consumer?</p> <p>20 A. Whether we had a written or a verbal</p> <p>21 request from the consumer.</p> <p>22 Q. And what would the written or verbal</p> <p>23 request from the consumer consist of?</p> <p>24 A. It could be a number of things:</p> <p>25 It could be, if there was a dispute;</p>	<p style="text-align: right;">Page 85</p> <p>1 If there was an -- in this case, a</p> <p>2 request for the -- for another notice, because the</p> <p>3 first notice was not received.</p> <p>4 It could be a number of different things.</p> <p>5 Q. And when a consumer verbally requests that</p> <p>6 a notice be re-sent, or sent again, what does a -- what</p> <p>7 does the collector do in order to make that happen?</p> <p>8 A. The collector prompts the system, with a</p> <p>9 back screen prompt, to go ahead and have the system</p> <p>10 automatically generate the letter.</p> <p>11 Q. And the automatic -- Well, strike that,</p> <p>12 the letter that's been marked, and it's Bates Optio 001</p> <p>13 and marked as Exhibit H, is that a -- and I think</p> <p>14 you -- correct me if I'm wrong if you said this</p> <p>15 already -- it's an automatically-generated letter?</p> <p>16 A. Correct.</p> <p>17 Q. And why was this letter sent to Mr. Rigby?</p> <p>18 A. He requested a second notice, or a</p> <p>19 follow-up notice, because he alleged he didn't receive</p> <p>20 our previous notices.</p> <p>21 Q. And was Mr. Rigby's request for a second</p> <p>22 notice verbal or in writing?</p> <p>23 A. Verbal, to my knowledge, based on the</p> <p>24 Exhibit F notes.</p> <p>25 Q. And the first sentence we talked about</p>

<p style="text-align: right;">Page 86</p> <p>1 this morning in Exhibit H, "We are in receipt of your 2 written correspondence regarding Account No. 4760109, 3 could that -- was that -- well, strike that. 4 The language, "We are in receipt of your 5 written correspondence regarding Account No. 4760109," 6 was that in fact -- was this letter in fact generated 7 because of written correspondence sent by Mr. Rigby? 8 A. Not to my knowledge. It was a verbal 9 request. 10 Q. Does Optio generate different letters 11 based off of verbal responses, versus -- or verbal 12 requests versus written requests? 13 A. No, sir. 14 Q. So, this letter of November 8th, 2018 15 Optio 001, would have been sent due to a verbal request 16 or a written request. 17 A. Correct. 18 Q. Exhibit D, as in dog, the 19 Interrogatories.... 20 A. Yes. 21 Q. Bear with me one second while I get them 22 pulled up on my computer, it's a little behind here. 23 A. Okay. 24 Q. All right . If you flip to the second to 25 the last page, is there a date on the lower left-hand</p>	<p style="text-align: right;">Page 87</p> <p>1 corner? 2 A. The second to the last page, yes, May 3rd, 3 2019? 4 Q. And the last page, we've talked about your 5 verification this morning. Is that your signature? 6 A. Yes, sir. 7 Q. And did you review this document on or 8 about May 3rd of 2019? 9 A. I did. 10 Q. And who would have provided you with this 11 document for you to review? 12 A. Our in-house legal department. 13 Q. And does the in-house legal department 14 provide you with with documentation from time to time 15 to review and sign? 16 A. Yes. 17 Q. And it is your understanding that Optio 18 conducted an investigation regarding the claims 19 asserted by Mr. Rigby here? 20 A. Yes. 21 Q. And the information and responses to the 22 questions or the interrogatories in Exhibit D as in 23 David, are those true and accurate, to the best of your 24 knowledge, as of May 3rd, 2019? 25 A. Yes.</p>
<p style="text-align: right;">Page 88</p> <p>1 MR. LITTLE: That's all I have, Bruce. 2 MR. VOLHEIM: All right. And I'm sorry, I 3 have to ask a few follow-ups, but they'll be brief. 4 5 FURTHER EXAMINATION BY MR. VOLHEIM: 6 MR. VOLHEIM: Q. Bruce, with respect to 7 Exhibit H, you testified that this is a template 8 letter; is that correct? 9 A. Correct. 10 Q. And this letter would be sent regardless 11 if a consumer has a verbal request or a written 12 request; is that correct? 13 A. Yes. 14 Q. Why doesn't the letter just say, we are in 15 receipt of your request regarding Account No. 46- -- 16 excuse me -- 4760109? Why does Optio add the word 17 "written"? 18 A. I have no idea. I wasn't privy to the 19 development of the letter. 20 Q. Do you think it would be more accurate to 21 state, we are in receipt of your request regarding 22 Account No. 4760109? 23 MR. LITTLE: Form. 24 THE WITNESS: I don't know. 25 MR. VOLHEIM: Q. In your opinion, is it</p>	<p style="text-align: right;">Page 89</p> <p>1 more accurate to leave off the word "written," and not 2 delineate whether the request was written or verbal? 3 MR. LITTLE: Object to the form. 4 THE WITNESS: In my opinion, yes, 5 probably. 6 MR. LITTLE: Q. Does Optio have the 7 ability to alter the templates it uses to send to 8 consumers? 9 A. Unfortunately, I'm not -- I am not privy 10 to that side of the business. 11 Q. Well, if you go down to the middle of the 12 page, there is input information, like Check Number, 13 Amount Number, Service Fee, Total Due, Check Date, you 14 see that, correct? 15 A. Yup. 16 Q. And that changes based on the consumer 17 it's being sent to, correct? 18 A. Are you asking me if we send every other 19 consumer Erick Rigby's name and information? 20 Q. Yes. 21 A. No. Why would we do that? 22 Q. Okay. So I can take the answer as "no". 23 A. Yeah; we don't -- that would change, based 24 on -- on who the letter's going to. 25 Q. Okay. So, if that information can change,</p>

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1 can the information contained within the first
2 paragraph change?
3 **A. I -- again, I don't know, Nate. I'm not**
4 **sure how that process works.**
5 Q. And last couple questions:
6 Regarding Exhibit D, and your
7 verification, you testified, I think now, that you
8 reviewed this information on or around May 3rd, 2019;
9 is that correct?
10 **A. Correct.**
11 Q. But you do not remember who asked you to
12 verify this information.
13 **A. I don't remember who brought it to me to**
14 **look at, no.**
15 Q. And did you prior to signing this
16 document, did you review any materials?
17 **A. Can you give me an example?**
18 Q. Did you review any account notes from my
19 client prior to signing this document?
20 **A. I don't recall.**
21 Q. Did you review any call logs prior to
22 signing this document?
23 **A. I don't recall. It's six months ago.**
24 Q. Did you make any changes or edits to this
25 document prior to signing it?

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1 DECLARATION UNDER PENALTY OF PERJURY
2
3
4 I, _____,
5 declare under penalty of perjury under the laws of
6 the State of California, that the foregoing is true
7 and correct; that I have read my deposition and have
8 made the necessary corrections, additions, or changes
9 to my answers that I deem necessary.
10 Executed on this ____day of _____,
11 2019.
12
13
14
15
16 BRUCE HOTALING
17
18 ---oOo---
19
20
21
22
23
24
25

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1 **A. No.**
2 MR. VOLHEIM: Okay, Bruce, I appreciate
3 your time. I don't have any other questions for you.
4 (The proceedings were adjourned at 1:00
5 p.m.)
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1)
2 STATE OF CALIFORNIA) ss.
3)
4 CERTIFICATE OF REPORTER
5 I, A. MAGGI SAUNDERS, a Certified Shorthand
6 Reporter in and for the State of California, duly
7 appointed and licensed to administer oaths and so
8 forth, do hereby certify:
9 That the witness named in the foregoing
10 deposition was by me duly sworn to tell the truth,
11 the whole truth and nothing but the truth;
12 That the deposition was reported by me, a
13 Certified Shorthand Reporter and disinterested
14 person, and thereafter transcribed into typewriting
15 under my direction;
16 That if the deposition has not been signed
17 by the time of trial, a reasonable opportunity having
18 been given the witness to do so, signature has been
19 waived in accordance with stipulation between
20 counsel.
21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and subscribed my signature this 19th day of
23 September, 2019. *A. Maggi Saunders*
24 A. MAGGI SAUNDERS, C.S.R. No. 2755,
25 Certified Shorthand Reporter,
In and For the State of California

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<div>1 DEPOSITION ERRATA SHEET</div> <div>2</div> <div>3 Page No. _____ Line No. _____</div> <div>4 Change: _____</div> <div>5 Reason for Change: _____</div> <div>6 Page No. _____ Line No. _____</div> <div>7 Change: _____</div> <div>8 Reason for Change: _____</div> <div>9 Page No. _____ Line No. _____</div> <div>10 Change: _____</div> <div>11 Reason for Change: _____</div> <div>12 Page No. _____ Line No. _____</div> <div>13 Change: _____</div> <div>14 Reason for Change: _____</div> <div>15 Page No. _____ Line No. _____</div> <div>16 Change: _____</div> <div>17 Reason for Change: _____</div> <div>18 Page No. _____ Line No. _____</div> <div>19 Change: _____</div> <div>20 Reason for Change: _____</div> <div>21 Page No. _____ Line No. _____</div> <div>22 Change: _____</div> <div>23 Reason for Change: _____</div> <div>24 Page No. _____ Line No. _____</div> <div>25 Change: _____</div>	

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